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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,607	09/25/2003	Kazuhiro Kudo	1609-0127P	5668

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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT PAPER NUMBER

3618

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	10/669,607		KUDO ET AL.	
	Examiner		Art Unit	
	Christopher Bottorff		3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-17 and 19 is/are rejected.
- 7) ☒ Claim(s) 5 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The amendment filed October 11, 2005 has been entered. Claims 4-19 are added. Claims 1-19 are pending.

### ***Drawings***

The replacement drawings were received on October 11, 2005. These drawings are approved.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 7-13, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6, 12, and 19 each recite the limitation "the two rivets" in line 3 of each claim. There is insufficient antecedent basis for this limitation in the claims.

Claim 7 recites the limitation "the vehicle body frame" in line s3-4. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Yasunaga et al. US 4,878,555.

Yasunaga et al. disclose a body cover comprising a cover main body and fenders 6l and 6r, which are attached to the cover main body via the bond between the two integrally formed components. See Figures 1 and 2 and column 3, lines 2-5. The cover main body is disposed at a central part in a lateral direction of the vehicle and includes an upper surface 5 and side wall surfaces disposed on the interior sides of the wheels Wf. See figures 1 and 2. The upper surface 5 covers a vehicle body frame from above and the side surfaces cover the vehicle body from lateral sides. See Figure 2. The side wall surfaces are oppositely spaced apart at inner side surfaces in an axial direction of the two front wheels Wf and the side wall surfaces extend downwardly from positions where the fenders are attached to the cover main body. See Figure 2. Also, the side wall surfaces extend downwardly below each of the fenders. See Figure 2.

The shape of the fenders 6l and 6r includes a front first portion that is substantially horizontal and a rear second portion that is substantially vertical. See Figure 2. The front first portion and rear second portion intersect each other at the point where the rear second portion begins to extend downward from the front first portion.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 8-10, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasunaga et al. US 4,878,555 in view of Scott US 6,336,677.

Since the cover main body and fenders are formed integrally, Yasunaga et al. do not disclose that the intersecting front first and rear second portions of each of the fenders has abutting side surfaces abutting against a respective one of the side wall surfaces to attach the fenders to the cover main body.

However, Scott teaches the desirability of providing a fender attachment arrangement with abutting side surfaces of a fender 102 that abut against side wall surfaces of member 100 adjacent the bolt accommodating holes of the fender. See Figure 3 and column 3, line 63, through column 4, line 8. From the teachings of Scott, attaching the fenders of Yasunaga et al. to the cover main body by providing abutting surfaces on the fenders that abut the side wall surfaces, rather than attaching the fenders and cover main body by forming them integrally, would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the fenders to be removed and replaced with new fenders in the event that the fenders become damaged. Also, since the abutting surfaces of the fenders would conform to the shape of the fenders of Yasunaga et al., the abutting surfaces of the fenders

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produced by the combination of Yasunaga et al. and Scott would each include a front side first surface and a rear side second surface that intersect each other.

### ***Allowable Subject Matter***

Claims 5 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 6, 11, 12, and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art does not teach or suggest the downwardly slanted engagement piece formed at a lower location of the second surface, as defined in each of claims 5, 11, and 18. The prior art also does not teach or suggest the engagement piece and two rivet combination defined in claims 6, 12, and 19. These features, in combination with the further limitations of the claims, distinguish the claimed invention over the prior art.

### ***Response to Arguments***

Applicants' arguments with respect to Olsen and Tsutsumikishi et al. have been considered but are moot in view of the new ground(s) of rejection. In regard to the arguments directed toward Morishita et al., Yasunaga et al. disclose the features of claims 1, 7, and 14 and Morishita et al. are not needed to teach these features.

Also, Applicants request acknowledgement of a claim for foreign priority.

However, the present application does not include a claim for foreign priority and no certified priority papers have been received. Only a claim of priority to US provisional application 60/414,356 has been made.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tamura and May disclose fender arrangements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (571) 272-6692. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

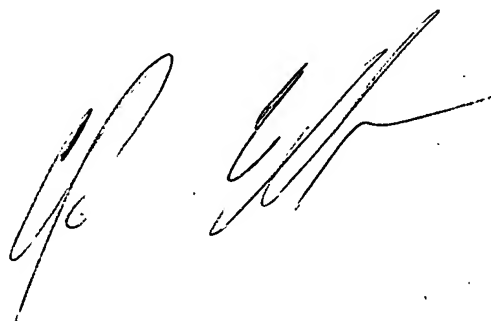
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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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